

and that the Regulatory Flexibility Act of 1980 therefore did not apply. Neither the Chief Counsel for Advocacy of the Small Business Administration nor any other commenting party disagreed with our analysis. The Secretary shall send a copy of this Report and Order, including the certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with ¶ 605(b) of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. § 601 et seq.

**B. Notice of Proposed Rulemaking on Amendment of the Part 69 Allocation of General Support Facility Costs**

**1. Ex Parte**

272. This proceeding is a non-restricted notice and comment rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission's rules. See generally 47 C.F.R. §§ 1.1202, 1.1203, and 1.1206(a).

**2. Regulatory Flexibility Act**

273. We certify that the Regulatory Flexibility Act of 1980 does not apply to this rulemaking proceeding because the proposed rule amendment, if promulgated, would not have a significant economic impact on a substantial number of small business entities, as defined by Section 601(3) of the Regulatory Flexibility Act. Carriers providing interstate access transmission lines for telecommunications services directly subject to the proposed rule amendment are large corporations or affiliates of such corporations. The Secretary shall send a copy of this Notice of Proposed Rulemaking, including the certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with ¶ 603(a) of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. § 601 et seq.

**3. Notice and Comment Provision**

274. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 C.F.R. §§ 1.415 and 1.419, interested parties may file comments on or before December 4, 1992, and reply comments on or before December 21, 1992. To file formally in this proceeding, persons must file an original and five copies of all comments, reply comments, and supporting comments. Parties that want each Commissioner to receive personal copies of their comments must file originals plus nine copies. Parties should send comments and reply comments to the Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. In addition, parties should file two copies of any such pleadings with the Policy and Program Planning Division, Common Carrier Bureau, Room 544, 1919 M Street, N.W., Washington, D.C. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, Downtown Copy Center, 1990 M Street, N.W., Suite 640, Washington, D.C. 20036. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W.,

Washington, D.C. For further information regarding this Notice of Proposed Rulemaking, contact Douglas L. Slotten, Common Carrier Bureau, Policy and Program Planning Division, (202) 632-9342.

## XII. ORDERING CLAUSES

275. Accordingly, IT IS ORDERED that pursuant to authority contained in Sections 1, 4(i), 201-205 and 214(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154, 201-205 & 214(d), Parts 61, 64, 65 and 69 of the Commission's Rules are AMENDED as set forth in Appendix B hereto.

276. IT IS FURTHER ORDERED that the policies, rules, and requirements set forth herein ARE ADOPTED.

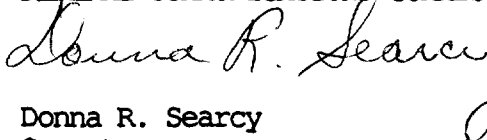
277. IT IS FURTHER ORDERED that the Chief, Common Carrier Bureau is delegated the authority specified herein to act upon implementation details pertaining to expanded interconnection.

278. IT IS FURTHER ORDERED that the policies, rules, and requirements adopted herein SHALL BE EFFECTIVE 90 days after publication in the Federal Register, except for our requirement, which shall be effective 30 days from release of this Order, for the filing of interim expanded interconnection tariffs.<sup>628</sup>

279. IT IS FURTHER ORDERED that the Motion of the United States Department of Justice for Leave to File Reply Comments Out of Time and the Motion of the Association for Local Telecommunications Services for Leave to File Supplemental Comments Out of Time ARE GRANTED.

280. IT IS FURTHER ORDERED that NOTICE IS HEREBY GIVEN of the proposed regulatory changes regarding revision of Section 69.307 of our Rules, 47 C.F.R. § 69.307, as described above, and that COMMENT IS INVITED on these proposals.<sup>629</sup>

FEDERAL COMMUNICATIONS COMMISSION



Donna R. Searcy  
Secretary

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<sup>628</sup> Since this requirement applies to fewer than 10 entities, it is not subject to the requirements of the Paperwork Reduction Act. See supra note 612.

<sup>629</sup> This action is taken pursuant to Sections 1, 4(i) & (j), 201-205, 218, 220 & 404 of the Communications Act, 47 U.S.C. §§ 151, 154(i) & (j), 201-205, 218, 220 & 404.

APPENDIX A

COMMENTS FILED IN RESPONSE TO  
NOTICE OF PROPOSED RULEMAKING  
(CC DOCKET NO. 91-141)

August 6, 1991

Ad Hoc Telecommunications Users Committee (Ad Hoc)  
Allnet Communication Services (Allnet)  
American Newspaper Publishers Association (ANPA)  
American Petroleum Institute (API)  
Ameritech Operating Companies (Ameritech)  
Association for Local Telecommunications Services (ALTS)  
Association of American Railroads (AAR)  
AT&T  
Bell Atlantic Telephone Companies (Bell Atlantic)  
BellSouth Telephone Companies (BellSouth)  
California Bankers Clearing House Association and New York  
Clearing House Association (Bankers)  
The People of the State of California and the Public Utilities Commission of  
the State of California (California)  
Central Telephone Company (Centel)  
Cellular Service, Inc.  
Cincinnati Bell Telephone Company (Cincinnati Bell)  
Competitive Telecommunications Association (CompTel)  
CompuServe Inc. (CompuServe)  
Digital Direct, Inc. (Digital Direct)  
Public Service Commission of the District of Columbia (D.C.)  
EDS Corporation (EDS)  
Florida Public Service Commission (Florida)  
FMR Corp. (FMR)  
General Communication, Inc. (GCI)  
U.S. General Services Administration (GSA)  
GTE Service Corporation (GTE)  
Illinois Commerce Commission (Illinois)  
Independent Data Communications Manufacturers Association, Inc. (IDCMA)  
Indiana Digital Access, Inc. (IDA)  
Information Industry Association (IIA)  
Institutional Communications Company (ICC)  
Intermedia Communications of Florida, Inc. (Intermedia)  
International Communications Association (ICA)  
Lincoln Telephone and Telegraph Company (Lincoln)  
Local Area Telecommunications, Inc. (Locate)  
MCI Telecommunications Corporation (MCI)  
MetroComm  
Metropolitan Fiber Systems, Inc. (MFS)  
Michigan Public Service Commission Staff (Michigan)  
MidAmerican Communications Corporation (MidAmerican)  
National Association of Regulatory Utility Commissioners (NARUC)  
National Exchange Carrier Association, Inc. (NECA)  
National Telephone Cooperative Association (NTCA)

New York State Department of Public Service (New York)  
NYNEX Telephone Companies (NYNEX)  
Organization for the Protection and Advancement of Small Telephone  
Companies (OPASTCO)  
Pacific Bell and Nevada Bell (Pacific)  
Penn Access Corporation  
Pennsylvania Office of Consumer Advocate  
Personal Communications Network Services of New York, Inc. (PCNS-NY)  
Puerto Rico Telephone Company (PRTC)  
RCI Long Distance of New England, Inc. d/b/a Long Distance  
North (Long Distance North)  
Rochester Telephone Corporation (Rochester)  
Chief Counsel for Advocacy of the U.S. Small Business  
Administration (SBA)  
Southern New England Telephone Company (SNET)  
Southwestern Bell Telephone Company (SW Bell)  
US Sprint Communications Company Limited Partnership (Sprint)  
TDS Telecommunications Corporation (TDS)  
Teleport Communications Group (Teleport)  
Teleport Denver Ltd. (Teleport Denver)  
United States Telephone Association (USTA)  
United Telephone System Companies (United)  
U S West Communications, Inc. (U S West)  
Utilities Telecommunications Council (UTC)  
Virginia State Corporation Commission Staff (Virginia)  
Wells Rural Electric Company  
Williams Telecommunications Group, Inc. (WilTel)

**REPLY COMMENTS FILED IN RESPONSE TO  
NOTICE OF PROPOSED RULEMAKING  
(CC DOCKET NO. 91-141)**

September 20, 1991

Ad Hoc  
Alabama Public Service Commission (Alabama)  
ALTS  
Ameritech  
Anchorage Telephone Utility  
API  
Arkansas Public Service Commission and Missouri Public Service Commission  
(Arkansas/Missouri)  
Associated Communications of Los Angeles, Inc. (ACLA)  
AT&T  
Bankers  
Bay Area Teleport  
Bell Atlantic  
BellSouth  
California  
Centel  
Cincinnati Bell

CompTel  
D.C.  
Fairbanks Municipal Utilities System  
Electric Lightwave, Inc.  
FMR  
GCI  
GSA  
GTE  
ICA  
ICC  
IDA  
IDOMA  
Intermedia  
U.S. Department of Justice (Justice)  
Kansas Independent Rural Telephone Companies  
Linkatel Communications, Inc.  
Locate  
Matanuska Telephone Association, Inc.  
McCaw Cellular Communications, Inc. (McCaw)  
MCI  
MFS  
MidAmerican  
Minnesota Department of Public Service (Minnesota Dept.)  
Minnesota Public Utilities Commission (Minnesota Commission)  
U.S. National Telecommunications and Information Administration (NTIA)  
NECA  
New York City Department of Telecommunications and Energy (New York City)  
North American Telecommunications Association (NATA)  
NTCA  
NYNEX  
OPASTCO  
Pacific  
PRTC  
Rochester  
SNET  
Sprint  
SW Bell  
Tallon, Cheeseman and Associates, Inc. (Tallon Cheeseman)  
TDS  
Teleport  
Teleport Denver  
Texas Telephone Association  
USTA  
United  
U S West  
WilTel

**COMMENTS FILED IN RESPONSE TO  
SUPPLEMENTAL NOTICE OF PROPOSED RULEMAKING  
(CC DOCKET NO. 91-141)**

November 5, 1991

Ameritech  
ALTS  
Bell Atlantic  
BellSouth  
California  
Centel  
Cincinnati Bell  
CompTel  
Consolidated Telephone Company and Consolidated Telco, Inc. (Consolidated)  
GTE  
MCI  
MFS  
NECA  
NYNEX  
Pacific  
Rochester  
SNET  
Sprint  
SW Bell  
Tallon Cheeseman  
Teleport  
Teleport Denver  
USTA  
United  
U S West  
WillTel

**REPLY COMMENTS FILED IN RESPONSE TO  
SUPPLEMENTAL NOTICE OF PROPOSED RULEMAKING  
(CC DOCKET NO. 91-141)**

December 10, 1991

Ameritech  
ALTS  
Bell Atlantic  
BellSouth  
CompTel  
GSA  
GTE  
MCI  
MFS  
NARUC ("Additional Comments," filed November 27, 1991)  
NTCA  
NYNEX

Pacific  
Rochester  
Sprint  
SW Bell  
Tallon Cheeseman  
Teleport  
Teleport Denver  
USTA  
United  
U S West  
WillTel

## APPENDIX B

### AMENDMENTS TO THE CODE OF FEDERAL REGULATIONS

#### PART 61 — TARIFFS

Part 61 of Title 47 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 61 continues to read as follows:

AUTHORITY: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply sec. 203, 48 Stat. 1070; 47 U.S.C. 203.

2. Section 61.38 is amended by adding paragraphs (b) (3) and (b) (4), to read as follows:

§ 61.38 Supporting information to be submitted with letters of transmittal.

\* \* \* \* \*

(b) Explanation and data supporting either changes or new tariff offerings. \* \* \*

\* \* \* \* \*

(3) For a tariff filing that introduces or changes a contribution charge for special access and expanded interconnection, as defined in § 69.122 of this chapter, the carrier must submit information sufficient to establish that the charge has been calculated in a manner that complies with the Commission order authorizing the contribution charge.

(4) For a tariff that introduces a system of density pricing zones for special access, as described in § 69.123 of this chapter, the carrier must, before filing its tariff, submit a density pricing zone plan including, inter alia, documentation sufficient to establish that the system of zones reasonably reflects cost-related characteristics, such as the density of total interstate traffic in central offices located in the respective zones, and receive approval of its proposed plan.

\* \* \* \* \*

3. Section 61.47 is amended by redesignating paragraph (h) as paragraph (h) (1) and by adding the following new paragraph (h) (2):

§ 61.47 Adjustments to the SBI; pricing bands.

\* \* \* \* \*

(h) (1) \* \* \*



(2) In addition to the requirements of paragraph (h)(1) of this section, those local exchange carriers subject to price cap regulation that have established density pricing zones pursuant to § 69.123 of this chapter shall use the methodology set forth in paragraphs (a) through (d) of this section to calculate separate subindexes in each zone for DS1 services, DS3 services, and such other special access services that the Commission may designate by order. Notwithstanding paragraph (e) of this section, the annual pricing flexibility for each of these subindexes shall be limited to an annual increase of five percent or an annual decrease of ten percent, relative to the percentage change in the PCI for the special access services basket, measured from the last day of the preceding tariff year.

\* \* \* \* \*

4. Section 61.49 is amended by revising the first sentence of paragraph (h), and by adding the following new paragraphs (i), (j), and (k), to read as follows:

**§ 61.49 Supporting information to be submitted with letters of transmittal for tariffs of carriers subject to price cap regulation.**

\* \* \* \* \*

(h) Each tariff filing by a local exchange carrier that introduces a new service that will later be included in a basket, or that introduces or changes the rates for connection charge subelements for expanded interconnection, as defined in § 69.121 of this chapter, must also be accompanied by

\* \* \* \* \*

(i) Each tariff filing submitted by a local exchange carrier subject to price cap regulation that introduces or changes the rates for connection charge subelements for expanded interconnection, as defined in § 69.121 of this chapter, must be accompanied by cost data sufficient to establish that such charges will not recover more than a just and reasonable portion of the carrier's overhead costs.

(j) For a tariff filing that introduces or changes a contribution charge for special access and expanded interconnection, as defined in § 69.122 of this chapter, the carrier must submit information sufficient to establish that the charge has been calculated in a manner that complies with the Commission order authorizing the contribution charge.

(k) For a tariff that introduces a system of density pricing zones for special access, as described in § 69.123 of this chapter, the carrier must, before filing its tariff, submit a density pricing zone plan including, inter alia, documentation sufficient to establish that the system of zones reasonably reflects cost-related characteristics, such as the density of total interstate traffic in central offices located in the respective zones, and receive approval of its proposed plan.

**PART 64 — MISCELLANEOUS RULES RELATING TO COMMON CARRIERS**

Part 64 of Title 47 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 64 continues to read as follows:

AUTHORITY: Section 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 201, 218, 225, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 201, 218, 225 unless otherwise noted.

2. Subpart N of Part 64 is added to read as follows:

**PART 64 — MISCELLANEOUS RULES RELATING TO COMMON CARRIERS**

\* \* \* \* \*

**Subpart N — Expanded Interconnection**

64.1401 Expanded interconnection  
64.1402 Rights and responsibilities of interconnectors

\* \* \* \* \*

**Subpart N — Expanded Interconnection**

Authority: Secs. 1, 4(i), 201-205, 214(d), and 220, as amended; 47 U.S.C. 151, 154(i), 201-205, 214(d), and 220.

**§ 64.1401 Expanded interconnection.**

(a) Every local exchange carrier that is classified as a Class A company under § 32.11 of this chapter and that is not a National Exchange Carrier Association interstate tariff participant, as provided in part 69, subpart G of this chapter, shall offer expanded interconnection for interstate special access services at their central offices that are classified as end offices or serving wire centers, and at other rating points used for interstate special access.

(b) The local exchange carriers specified in paragraph (a) of this section shall offer expanded interconnection for interstate special access services through physical collocation, except that they may offer virtual collocation instead of physical collocation, upon approval by the Commission, under the following circumstances:

(1) At an individual central office, if that office lacks physical space to accommodate physical collocation; or

(2) For new customers at an individual central office, if the space available for physical collocation has been exhausted. Local exchange carriers shall not withdraw their offering of physical collocation for

existing customers due to space limitations, absent extraordinary circumstances.

(3) In a state, if the state legislature or public utility regulatory agency issues a formal decision, after proceedings allowing all interested parties a reasonable opportunity to be heard, in favor of virtual collocation rather than physical collocation for intrastate expanded interconnection, or in favor of allowing local exchange carriers to choose which form of collocation to use for intrastate expanded interconnection. Exemption requests based on such final state decisions must be submitted by the date for filing initial interstate special access expanded interconnection tariffs.

(c) In addition to the obligations imposed by paragraph (b) of this section, the local exchange carriers specified in paragraph (a) of this section shall offer expanded interconnection for interstate special access services through virtual collocation in any study area used for the purposes of jurisdictional separations in which:

(1) A carrier is providing intrastate special access expanded interconnection through virtual collocation, or

(2) A carrier negotiates interstate special access virtual collocation arrangements with one or more interconnectors.

(d) For the purposes of this subpart, physical collocation means an offering that enables interconnectors:

(1) To place their own equipment needed to terminate basic transmission facilities, including optical terminating equipment and multiplexers, within or upon the local exchange carrier's central office buildings,

(2) To use such equipment to connect interconnectors' fiber optic systems or microwave radio transmission facilities (where reasonably feasible) with the local exchange carrier's equipment and facilities used to provide interstate special access services,

(3) To enter the local exchange carrier's central office buildings, subject to reasonable terms and conditions, to install, maintain, and repair the equipment described in paragraph (d) (1) of this section, and

(4) To obtain reasonable amounts of space in central offices for the equipment described in paragraph (d) (1) of this section, allocated on a first-come, first-served basis.

(e) For the purposes of this subpart, virtual collocation means an offering that enables interconnectors:

(1) To designate or specify equipment needed to terminate basic transmission facilities, including optical terminating equipment and multiplexers, to be located within or upon the local exchange carrier's central office buildings, and dedicated to such interconnectors' use,

(2) To use such equipment to connect interconnectors' fiber optic systems or microwave radio transmission facilities (where reasonably feasible) with the local exchange carrier's equipment and facilities used to provide interstate special access services, and

(3) To monitor and control their communications channels terminating in such equipment.

(f) Under both physical collocation offerings and virtual collocation offerings for expanded interconnection of fiber optic facilities, local exchange carriers shall provide:

(1) An interconnection point or points at which the fiber optic cable carrying an interconnectors' circuits can enter each central office, provided that the local exchange carrier shall designate interconnection points as close as reasonably possible to each central office; and

(2) At least two such interconnection points at any central office at which there are at least two entry points for the local exchange carrier's cable facilities.

#### **§ 64.1402 Rights and responsibilities of interconnectors.**

(a) For the purposes of this subpart, an interconnector means a party taking expanded interconnection offerings. Any party shall be eligible to be an interconnector.

(b) Interconnectors shall have the right, under expanded interconnection, to interconnect their fiber optic systems and, where reasonably feasible, their microwave transmission facilities.

(b) Interconnectors shall not be allowed to use interstate special access expanded interconnection offerings to connect their transmission facilities with the local exchange carrier's interstate switched services.

#### **PART 65 — INTERSTATE RATE OF RETURN PRESCRIPTION PROCEDURES AND METHODOLOGIES**

Part 65 of Title 47 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 65 continues to read as follows:

**AUTHORITY:** Secs. 4, 201, 202, 203, 205, 218, 403, 48 Stat. 1066, 1072, 1077, 1094, as amended, 47 U.S.C. 154, 201, 202, 203, 205, 218, 403.

2. Section 65.702(b) is amended by revising the second sentence to read as follows:

**§ 65.702 Measurement of interstate services earnings**

\* \* \* \* \*

(b) \* \* \* The access service categories shall be: an aggregated category consisting of Special Access, § 69.113, Connection Charges for Expanded Interconnection, § 69.121, and Contribution Charges for Special Access and Expanded Interconnection, § 69.122; Common Line, §§ 69.104-69.105; and an aggregated category consisting of Line Termination, § 69.106, Intercept, § 69.108, Local Switching, § 69.107, Transport, §§ 69.111-69.112, and Information, § 69.109. \* \* \*

\* \* \* \* \*

**PART 69 — ACCESS CHARGES**

Part 69 of Title 47, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 69 continues to read as follows:

AUTHORITY: Secs. 4, 201, 202, 203, 205, 218, 403, 48 Stat. 1066, 1070, 1072, 1077, 1094, as amended, 47 U.S.C. 154, 201, 202, 203, 205, 218, 403.

2. Section 69.4 is amended by revising paragraph (b) and adding paragraphs (e) and (f), to read as follows:

**§ 69.4 Charges to be filed.**

\* \* \* \* \*

(b) Except as provided in subpart C of this part, in §§ 69.4(c), (d), (e), and (f), and in § 69.118, the carrier's carrier charges for access service filed with this Commission shall include charges for each of the following elements: \* \* \*

\* \* \* \* \*

(e) The carrier's carrier charges for access service filed with this Commission by the telephone companies specified in § 64.1401(a) of this chapter shall include an element for connection charges for expanded interconnection. The carrier's carrier charges for access service filed with this Commission by the telephone companies not specified in § 64.1401(a) of this chapter may include an element for connection charges for expanded interconnection.

(f) All telephone companies may implement a separate carrier's carrier tariff charge for the contribution charge element described in § 69.122 of this part, if authorized by the Commission by order.

3. Sections 69.121, 69.122 and 69.123 are added to subpart B to read as follows:

**PART 69 — ACCESS CHARGES**

\* \* \* \* \*

**Subpart B — Computation of Charges**

\* \* \* \* \*

- 69.121 Connection charges for expanded interconnection.
- 69.122 Contribution charges for special access and expanded interconnection.
- 69.123 Density pricing zones for special access.

\* \* \* \* \*

**§ 69.121 Connection charges for expanded interconnection.**

(a) Appropriate connection charge subelements shall be established for the use of equipment and facilities that are associated with offerings of expanded interconnection for special access services, as defined in part 64, subpart N of this chapter.

(1) A cross-connect subelement shall be established for charges associated with the cross-connect cable and associated facilities connecting the equipment owned by or dedicated to the use of the interconnector with the telephone company's equipment and facilities used to provide interstate special access services. Charges for the cross-connect subelement shall not be deaveraged within a study area that is used for purposes of jurisdictional separations.

(2) Charges for subelements associated with physical collocation or virtual collocation, other than the subelement described in paragraph (a) (1) of this section, may reasonably differ in different central offices, notwithstanding § 69.3(e) (7).

(b) Connection charge subelements shall be computed based upon the costs associated with the equipment and facilities that are included in such subelements, including no more than a just and reasonable portion of the telephone company's overhead costs.

(c) Connection charge subelements shall be assessed upon all interconnectors that use the equipment or facilities that are included in such subelements.

**§ 69.122 Contribution charges for special access and expanded interconnection.**

(a) Any contribution charge that the Commission may, by order, permit shall be calculated in a manner that complies with the Commission order authorizing the contribution charge.

(b) Any contribution charge shall be assessed on a per unit of capacity basis, upon parties that use expanded interconnection for special access and upon customers of similar special access services offered by the telephone company.

**§ 69.123 Density pricing zones for special access.**

(a) Telephone companies may establish a reasonable number of density pricing zones within each study area that is used for the purposes of jurisdictional separations, in which at least one interconnector has taken the subelement of connection charges for expanded interconnection described in § 69.121(a)(1).

(b) Such a system of pricing zones shall be designed to reasonably reflect cost-related characteristics, such as the density of total interstate traffic in central offices located in the respective zones.

(c) Notwithstanding § 69.3(e)(7), telephone companies may charge rates for subelements of DS1, DS3, and such other special access services as the Commission may designate, that differ depending on the zone in which the service is offered, provided that the charges for any such service shall not be deaveraged within any such zone.

(1) A special access service subelement shall be deemed to be offered in the zone that contains the central office from which the service is provided.

(2) A special access service subelement provided to a customer between central offices shall be deemed to be offered in the highest priced zone that contains one of the central offices between which the service is offered.

(d)(1) Telephone companies not subject to price cap regulation may charge a rate for each service in the highest priced zone that exceeds the rate for the same service in the lowest priced zone by no more than fifteen percent of the rate for the service in the lowest priced zone during the period from the date that the zones are initially established through the following June 30. The difference between the rates for any such service in the highest priced zone and the lowest priced zone in a study area, measured as a percentage of the rate for the service in the lowest priced zone, may increase by no more than an additional fifteen percentage points in each succeeding year, measured from the rate differential in effect on the last day of the preceding tariff year.

(2) Telephone companies subject to price cap regulation may charge different rates for services in different zones pursuant to § 61.47(h) of this chapter.





FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

September 17, 1992

OFFICE OF  
THE CHAIRMAN

STATEMENT OF CHAIRMAN ALFRED C. SIKES  
Concurring in the Result and Dissenting in Part

Regarding Expanded Interconnection  
for Special Access (CC Docket No. 91-141)

On September 17 my colleagues and I adopted three interrelated policy items that collectively take a historic step in opening the local exchange market to the benefits of competition. I am confident that we have removed many regulatory barriers to competition and support fully the thrust of our actions and most of the rules adopted. I am troubled, however, by one specific requirement: that local exchange carriers provide physical collocation to all interconnectors.

The Order states that "We . . . require the LECs subject to this Order to make physical collocation available to all interconnectors that request it." Yet, "the parties remain free, under this approach, to negotiate satisfactory virtual collocation arrangements if such arrangements are preferable to physical collocation. . . ." This is doublespeak and does not give the clear guidance that the Commission owes U.S. industry and the American public.

It is unclear what problems the Commission is attempting to resolve by requiring local exchange carriers to offer physical collocation, particularly since the Order acknowledges that virtual collocation arrangements might be preferable to some parties seeking interconnection. The highly regulatory and inflexible approach the Commission has adopted seems likely to create more concrete problems than the illusory ones it seeks to resolve.

Furthermore, this requirement unnecessarily intrudes into the businesses of local exchange carriers. The physical collocation requirement raises serious questions about a "taking" or confiscation of local exchange carrier property in violation of the Fifth Amendment that are not adequately addressed by the Commission. I also have serious concerns about the local exchange carriers' ability to control access to their network facilities, and thus the impact of such a mandate on network reliability.

Finally, I believe that the Commission's requirement, while nominally deferring to current state policies, improperly places time and process constraints on state proceedings, essentially suggesting how and when states can best conduct their business and effectively undercutting any future state interconnection policies.

In light of these concerns, I am concurring as to our overall result in this docket, but dissenting to that portion of the order that requires the local exchange carriers to provide physical interconnection to all who request it.

I will look forward to reviewing the comments on reconsideration that address the specific action the Commission has taken requiring physical collocation in the context of the several issues I have raised.

**Separate Statement of  
Commissioner James H. Quello**

**RE: Expanded Interconnection for Interstate Special Access**

Having served on the Commission during the years when increasing competition has become the hallmark of our regulatory efforts, I am particularly pleased to cast my vote in support of this Report and Order. By removing structural barriers to the competitive provision of interstate special access services we will bring the benefits of competition to the users of local carriers' special access termination facilities. In my judgment, the Commission has struck a generally fair balance between the competing interests involved by facilitating the development of new state-of-the-art transmission networks while looking to extend to local exchange carriers the flexibility to price their own services to compete with these new networks.

At the same time, however, I must confess to having several reservations about our decision to require local exchange carriers to offer physical co-location to all interconnectors wanting it. The record in this proceeding indicates that the only real difference between physical co-location and virtual co-location is whether the local exchange carrier or the interconnector installs, maintains, and repairs the interconnector's equipment. The Report and Order shows quite clearly that the Commission intends to closely scrutinize the local exchange carriers' performance of these functions on behalf of virtual co-locators in order to assure that the local exchange carriers treat the equipment exactly as they would their own. Under these circumstances, our predilection for physical co-location, and the procedures we prescribe to effectuate it, could well be a solution in search of a problem. More importantly, there is also the distinct possibility that in preferring physical over virtual co-location we may end up creating more problems than we solve. Therefore, I will pay particularly close attention to any subsequent pleadings discussing this issue and remain open to rethinking this aspect of today's decision if in my judgment it becomes necessary to do so.

September 17, 1992

**STATEMENT OF  
COMMISSIONER SHERRIE P. MARSHALL**

Re: Report and Order on Expanded Interconnection with Local Telephone Companies (CC Docket No. 91-141);  
Second Notice of Proposed Rulemaking on Expanded Interconnection with Local Telephone Companies (CC Docket No. 80-286); and  
Report and Order on Transport Rate Structure and Pricing (CC Docket No. 91-213)

The three actions we take today -- implementation of expanded interconnection for special access, a proposal to implement expanded interconnection for switched access, and adoption of a new transport rate structure and prices -- cover some of the most important, complex and controversial issues this Commissioner has ever tackled. The questions presented are intricate, difficult to grasp and not susceptible to "quick fixes." Yet, from a consumer's perspective the basic result of the decisions is amazingly straightforward: rates for special access and switched transport services will decrease as competition increases.

I have been vigilant throughout these proceedings to ensure that in our efforts to stimulate the development of competition we have also given proper weight to the legitimate concerns of existing carriers and existing customers. An example of this balancing process is evident in the Special Access Expanded Interconnection Order. Upon concluding that the public interest is best served by a collocation policy, we simultaneously revised our rules to allow local exchange carriers to revise their special access prices so that they would not be hamstrung from competing with alternative access carriers. Similarly, in the transport proceeding, on the one hand we implement an interim rate structure that avoids immediate, excessive rate impacts on the smaller interexchange carriers, while on the other, we eliminate the equal charge per minute of use pricing structure, thus ensuring that the LECs can better meet the needs of the larger interexchange carriers.

The Further Notices we adopt today provide concrete evidence that our work has just begun. A final permanent transport rate structure and pricing plan have yet to be developed because we appreciate the need to move cautiously in this new competitive environment. In addition, the questions we ask about adopting expanded interconnection for switched transport are more complex

and controversial in their potential effect on local customers than those we addressed in the special access environment.

I am confident, however, that the record developed in both proceedings will provide significant guidance to the Commission as we further pursue our goals of increased competition, lower rates for consumers and continued high quality service. I can not emphasize enough the importance a well-developed record plays in proceedings of this magnitude and I urge all interested parties to devote whatever time and resources are necessary to assist us in our efforts.

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September 17, 1992

**SEPARATE STATEMENT  
OF  
COMMISSIONER ANDREW C. BARRETT**

**RE: Expanded Interconnection with Local Telephone Company  
Facilities; Amendment of Part 69 Allocation of General Support  
Facility Costs (CC Docket No. 91-141)**

This item is a major step toward increased competition in the provision of interstate access services. This item requires Tier 1 LECs to offer expanded opportunities for interconnection for the provision of interstate special access service. This Order also provides that expanded interconnection will be available to all third parties, including CAPs, IXCs, and end users. This Order in conjunction with today's other companion access Orders will expand service choices for telecommunications users, heighten incentives for efficiency, and increase pressure for cost-based prices.

A major aspect of this Order is the recognition and authorization for additional pricing flexibility to enable the LECs to price their own services in response to competition. I believe that the interconnection rules established in this item in conjunction with the added pricing flexibilities for the LECs, represents an equitable regulatory framework for increased competition in the interstate special access market.

This item requires LECs to make physical collocation available to all interconnectors that request it. The parties would be free to negotiate satisfactory virtual collocation arrangements if such arrangements are preferable from the point of view of both parties. Although interconnectors will have a right to physical collocation, this approach allows interested parties to negotiate collocation arrangements to meet specific needs. It is quite likely that LECs will be able to create virtual collocation arrangements sufficiently comparable to physical collocation that many interconnectors will choose virtual rather than physical collocation.

The tariffs implementing expanded interconnection for special access will include connection charges designed to compensate the LECs for services offered to interconnectors. However, the LECs will not be allowed to impose a contribution charge at this time.